# Child Support Administrative Processes:

## A Summary of Requirements in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

Vicki Turetsky

January 1997

Center for Law and Social Policy

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# Introduction

The Personal Responsibility and Work Opportunity Act of 1996[1] requires states to implement specific expedited and administrative procedures intended to expand the authority of the state child support agency and improve the efficiency of state child support programs. This paper analyzes the new requirements within the framework of existing federal law and policy. Unless otherwise specified, these requirements must go into effect following the close of the next regular state legislative session.[2]

In 1984, Congress required states to implement expedited processes for establishing and enforcing child support orders. Congress added paternity establishment in 1993.[3] In order to comply with the expedited processes requirement, states have to meet specific time frames for establishing paternity and establishing and enforcing support orders.[4] *Expedited* processes are not synonymous with *administrative* processes. Under the law, states could implement expedited processes in the courts, or they could set up administrative processes within the child support (IV-D) agency or other administrative agency.

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[1] P.L. 104-193 (also referred to in this paper as the Act or the new law). This paper focuses on the administrative requirements of the Act, and does not attempt to cover all aspects of the new law. In particular, the paper does not include new fiscal, audit, and reporting policies; cooperation, fees, and other provisions governing public assistance recipients; judicial procedures; or requirements applicable to the U.S. Department of Health and Human Services (HHS) and other federal agencies. For an overview of the major child support provisions in the new law, *see* CLASP's publication called *Family Law Issues and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, by Paula Roberts (Nov. 1996). For insight into the legislative history and effect of the child support provisions in the new law, *see* Paul K. Legler, "The Coming Revolution in Child Support Policy: Implications of the 1996 Welfare Act," *Family Law Quarterly* (Fall 1996).

[2] Provisions of the new law became effective upon the enactment date (August 22, 1996), unless otherwise specified in the text of the Act, except that provisions requiring the enactment or amendment of state laws under 42 U.S.C. §666 or revision of state plans under 42 U.S.C. §654 became effective on or after October 1, 1996. However, if the state needs to make state law changes, the state has until the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after the enactment of the Act. For states with a two-year session, each year is treated as a regular session. In addition, the new law provides for a five-year grace period for required constitutional amendments. Sec. 395 of the Act.

[3] 42 U.S.C. §666(a)(2).

[4] States must (1) establish support orders within 6 months of service in 75 percent of IV-D cases needing orders and within 12 months in 90 percent of cases; (2) attempt locate within 75 days; (3) establish a support obligation within 90 days of location; (4) take action to enforce delinquent orders within 30 days (or 60 days if service is needed); (5) send advance notice of income withholding within 15 days of location; (6) review and adjust orders within 180 days of determining that a review should be conducted or locating the other parent; and (7) meet additional time frames for interstate cases. 45 C.F.R. §§303.101; 303.3; 303.4; 303.6; 303.8; 303.100.

Spurred by federal time frames and caseload backlogs, some states began simplifying their processes to improve the timeliness of their child support system. A number of states moved to a full administrative process, authorizing the agency or separate administrative hearings agency to establish and enforce IV-D orders without judicial involvement. Some states developed hybrid systems, using a combination of administrative and judicial procedures to expedite IV-D case processing. Other states developed non-judicial and quasi-judicial processes managed by administrative offices within the courts. A few states have consolidated and centralized their programs. (A future CLASP publication will describe alternative processes developed by states to meet expedited time frames.)

This movement toward administrative process and centralization has been closely tied to computerization of the child support program. The Family Support Act of 1988 (FSA) requires state IV-D agencies to develop automated systems with the capacity to manage information and process IV-D cases statewide. Statewide systems must meet federal certification standards by October 1997. One theme of the FSA certification standards is to increase state capacity to process cases administratively and automatically with limited caseworker intervention. Another theme is to vastly expand the amount of automated information available to state IV-D programs.

While the new law does not mandate either full administrative process or state centralization, it moves states further in both directions. The new law specifically requires that the state IV-D office handle several aspects of case processing without judicial involvement. In addition, the new law requires states to use a variety of administrative enforcement mechanisms that depend on automated case processing and move states further away from case-specific discretion.

The new law sets in motion two other major changes which underscore the need for streamlined processes. First, new welfare time limits and eligibility restrictions implemented under the new Temporary Assistance for Needy Families (TANF) block grant will greatly increase the pressure on states to develop child support income streams for low-income families. Full administrative process may be the only realistic way for state IV-D agencies to meet the increased pressure to produce results. Second, the state IV-D program's ability to control and account for its caseload performance will become critical aspects of future federal performance-based funding and audit policies. Under the new law, states must continuously improve their paternity establishment rate until they reach 90 percent, or face fiscal penalty. In addition, Congress has directed the Secretary of Health and Human Services (HHS) to develop a performance-based incentive funding proposal and submit it to Congress by March 1997.

At the same time, the fiscal implications of maintaining existing judicial and quasi-judicial systems should lead states to reconsider their processes for establishing paternity and support obligations. While states can receive 66 percent federal reimbursement for the costs of administrative processes handled by the IV-D agency, federal reimbursement for judicial processes is limited. For example, federal reimbursement is not available to compensate judges and other court personnel, or to pay for office-related expenses.[5]

[5] 45 C.F.R. §304.21.

The new law presents an opportunity for each state to assess the current structure of its IV-D program and determine whether its program structure allows child support workers to process IV-D cases quickly, cost-effectively, and fairly. In many states, program fragmentation, local variation, and redundant procedures hamstring state performance. In preparing its legislative package for the upcoming session, the IV-D agency should seriously consider whether to propose a comprehensive set of state-level administrative processes tailored to improve case flow and get support in the hands of families.

# Overview of New Requirements

Under the Act, states must enact and implement laws expanding administrative processes in a number of ways:

- State IV-D agencies must be able to act administratively, "without the necessity of obtaining an order from any other judicial or administrative tribunal," in several important areas.[6]
- State IV-D agencies and child support tribunals must exert statewide jurisdiction over the parties.[7]
- State IV-D agencies must expand their use of administrative enforcement remedies.[8]
- States must establish four new databases to support administrative responsibilities.[9]
- States must expand the scope of voluntary procedures for paternity acknowledgment.[10]
- States have a variety of new options for reviewing and adjusting orders administratively.[11]
- States must respond to administrative requests for interstate enforcement.[12]
- States must adopt UIFSA, including direct withholding provisions, by January 1, 1998.[13]

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[6] Sec. 325(a)(2) of the Act, *to be codified as* 42 U.S.C. §666(c)(1).

[7] Sec. 325(a)(2) of the Act, *to be codified as* 42 U.S.C. §666(c)(2)(B).

[8] Secs. 314, 325, 364, 365,367, 368, 369, 372, 381, and 382 of the Act, *to be codified as* 42 U.S.C. §666.

[9] Sec. 311 of the Act, *to be codified as* 42 U.S.C. §654A (case registry); sec. 312, *to be codified as* 42 U.S.C. §654B (disbursement unit); sec. 313, *to be codified as* 42 U.S.C. §653A (new hire directory); sec. 331, *to be codified as* 42 U.S.C. §666(a)(5)(M) (paternity database).

[10] Sec. 331(a) of the Act, *to be codified as* 42 U.S.C. §666(a)(5).

[11] Sec. 351 of the Act, *to be codified as* 42 U.S.C. §666(a)(10).

[12] Sec. 323 of the Act, *to be codified as* 42 U.S.C. §666(a)(14).

[13] Sec. 321 of the Act, *to be codified as* 42 U.S.C. §666(f).

# IV-D Agencies Must Be Able to Act Administratively

Under the Act, states must in effect laws which require the use of expedited administrative and judicial procedures for establishing paternity, and for establishing, modifying, and enforcing support obligations.[14] These requirements are contained in section 325, the expedited procedures section of the new law. The new law expands the authority of the IV-D agency to act without obtaining an order from a judicial or administrative tribunal and reduces the role of the courts and administrative tribunals in pre-order discovery and post-order enforcement.[15] The new law also requires the IV-D agency to exercise statewide jurisdiction over IV-D cases and to automate expedited functions.

Section 325 has three parts. First, certain key procedures must be handled administratively by the central IV-D office, and will no longer be subject to case-by-case adjudication. Second, state courts and administrative tribunals hearing child support cases must have statewide jurisdiction over the parties and permit case transfers between local tribunals without the need for refiling or re-service. Tribunals must adopt incorporate mandatory change of address filing rules. Third, the new law directs the IV-D agency to use its automated system to implement the expedited procedures.[16]

The first part of section 325 requires the state to have procedures giving the state IV-D agency the authority to take the following administrative actions. The state IV-D agency must implement the procedures.[17] In a judicial process state, the courts must recognize and enforce the IV-D agency's authority to act. The procedures must be subject to due process safeguards, including requirements for notice, an opportunity to contest the action, and an opportunity to appeal on the record to an independent tribunal.

*1. Order genetic testing.* The IV-D agency must have the authority to order genetic testing in IV-D paternity cases. The IV-D agency may require the child and other parties to submit to tests. The IV-D agency must pay for the initial round of tests, but (at state option) may recoup

[14] Sec. 325(a)(1) of the Act, *to be codified as* 42 U.S.C. §666(a)(2). The new law retains the waiver provisions in the expedited procedures section, which authorize HHS to exempt the state from the expedited procedures requirements in one or more political subdivisions if the state demonstrates with data that a required law or procedure will not increase the effectiveness and timeliness of paternity establishment, support order issuance or enforcement within the subdivision. 42 U.S.C. §§666(a)(2) and (d); 45 C.F.R. §§303.101(e) and 302.70(d).

[15] Sec. 325 of the Act, *to be codified as* 42 U.S.C. §666(c)(1) and (2).

[16] Sec. 325 of the Act, *to be codified as* 42 U.S.C. §654A(h).

[17] 42 U.S.C. §654(20).

the costs from the father if paternity is established. If one of the parties contests the initial test results, the IV-D agency must obtain additional tests if the contestant pays for them in advance.[18]

*2. Issue subpoenas.* The IV-D agency must be able to issue administrative subpoenas to obtain financial or other information. In addition, the IV-D agency must have the power to impose penalties when the person subject to the subpoena fails to respond.

*3. Obtain information in public and private records.* The IV-D agency must be able to obtain upon request: (1) employment information from all public and private employers in the state; (2) information in a variety of public records; (3) information about obligors and obligees in the customer records of public utilities and cable television companies; and (4) information about obligors and obligees held by financial institutions. The IV-D agency's access to information is detailed in the next section of this paper.

*4. Order income withholding.* The IV-D agency must be able to order income with-holding in all IV-D cases. By October 1, 1998, withheld support must be collected and disbursed through a new state centralized collection and disbursement unit.[19] By October 1, 2000, the IV-D automated system must operate in tandem with the disbursement and collection unit to send employer withholding orders in IV-D cases within two days, monitor late and missed payments, and automatically enforce IV-D orders.[20]

*5. Secure assets.* The IV-D agency must have the authority to secure assets to satisfy an arrearage. The IV-D agency must be able to intercept or seize periodic or lump-sum payments from a state or local agency, including unemployment and worker's compensation and other benefits. The IV-D agency also must be able to seize judgments, settlements, and lottery winnings. In addition, the IV-D agency must be able to attach and seize assets held in financial institutions, attach public and private retirement funds, and impose liens against real and personal property. In appropriate cases, the IV-D agency must be able to force the sale of property and distribute the proceeds.

*6. Change payees.* The IV-D agency must be able to direct an obligor to send the support to a government payee when the obligee has assigned her support rights to the welfare (IV-A) or Medicaid agency. Similarly, the IV-D agency must be able to redirect payments to the state collection and disbursement unit. In either case, the IV-D agency must provide notice to the obligee and obligor.

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[18] Sec. 333 of the Act, *to be codified as* 42 U.S.C. §666(a)(5)(B)(ii).

[19] Sec. 312 of the Act, *to be codified as* 42 U.S.C. §654B(a).

[20] Sec. 312 of the Act, *to be codified as* 42 U.S.C. §654A(g).

*7. Increase monthly payments.* The IV-D agency must be able to increase the amount of the monthly support payment to include an arrearage payment, subject to state conditions or limitations.

*8. Enforce interstate IV-D actions.* The IV-D agency must have the authority to recognize and enforce the administrative actions of other state IV-D agencies. In interstate cases, states must use national forms for income withholding, liens, and administrative subpoenas. States must begin using the forms by March 1, 1997.[21]

The second part of section 325 requires states to have procedures for (1) the state IV-D agency, and (2) any administrative or judicial tribunal with authority to hear child support and paternity cases to exert statewide jurisdiction over the parties. These procedures must apply to all proceedings to establish paternity or to establish, modify, or enforce support orders, and are not limited to IV-D cases. States must be able to transfer child support cases between local jurisdictions without requiring the petitioner to refile the case or serve papers a second time.[22]

In addition, states must adopt presumptive notice procedures. Upon entry of a paternity or support order, the parties are required to file with the tribunal (and to update) specific information on how to contact them, including social security number, residential and mailing addresses, telephone number, driver's license, and name address, and telephone number of their employers. Parties must file the same locate information with the state case registry. If a party fails to show up in a subsequent proceeding, and if the state has made diligent efforts to find the party and has sent written notice to the most recent residential or employment address on file, the tribunal may deem notice.[23] The state's presumptive notice procedures must include privacy safeguards.

The third part of section 325 requires that the statewide automated system be used to implement the expedited administrative procedures "to the maximum extent feasible."

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[21] Sec. 324 of the Act, *to be codified as* 42 U.S.C. §§654(9)(E); 652(a)(11). The new law is ambiguous regarding whether the national income withholding form must be used in intrastate IV-D cases and in non-IV-D cases. Section 314 specifies that the national form must be used to notify employers to withhold income. As a practical matter, states should prescribe the national forms for all cases to standardize case processing and to recognize the frequent movement of cases from intra to interstate status and from non-IV-D to IV-D status. National forms are being developed through a federal-state work group process and piloted by states before formal adoption.

[22] Sec. 325 of the Act, *to be codified as* 42 U.S.C. §666(c)(2).

[23] The state must send notice to IV-D applicants and recipients, and parties to IV-D cases, of all proceedings in which a support obligation might be established or modified, and a copy of any order establishing or modifying an obligation. Sec. 304 of the Act, *to be codified as* 42 U.S.C. §654(12).

# IV-D Agencies Must Access and Exchange Information

The new law contains a number of provisions expanding access to and exchange of information by the state IV-D agency. Section 325 of the new law requires the state IV-D agency to obtain access to a variety of public and private records on individuals without the necessity of obtaining an order from any other judicial or administrative tribunal. Other provisions of the Act require the state IV-D agency to disclose, exchange, and compare information with other state and federal databases.

Since the enactment of the new law, a number of concerns have been raised about data privacy and security. One set of concerns, raised by some employers and state employment security agencies about wage information, involves the increased exchange of data among public agencies and private contractors. Another set of concerns, raised by many advocates, relates to domestic violence and the need for stronger safeguards on the disclosure of information.

While a discussion of data confidentiality and security issues is beyond the scope of this paper, a brief description of current data access and exchange requirements may be helpful in understanding the scope of new law. This section will first describe the information sources available to state IV-D agencies under current law and under the Act. The section then will describe data exchange and confidentiality requirements.

Under current law, state IV-D agencies are required (1) to access "appropriate" location sources, and (2) to operate a central state Parent Locator Service using "all relevant sources of information and records" available in the state and in other states as appropriate. In order to meet federal certification standards, statewide computer systems are required to interface electronically with "all appropriate sources,"including the state employment security agency (SESA). Quarterly wage information maintained by the SESA is directly available to state and local IV-D agencies.[24] In addition, state IV-D agencies may obtain wage information, social security numbers, and public assistance data through the state-operated Income and

[24] Under 42 U.S.C. §1320b-7(a)(3), employers must file quarterly wage reports with the state unemployment compensation agency or other designated state agency. Under 42 U.S.C. §503(e)(1)(A), the SESA must disclose wage information to state and local child support agencies upon request. In addition, the SESA must (1) require new applicants for benefits to disclose whether they have child support obligations being enforced by the IV-D program, (2) notify the state or local IV-D agency when an applicant is determined eligible for compensation and has disclosed a IV-D obligation, and (3) withhold compensation as support. 42 U.S.C. §503(e)(2)(A); *see* 42 U.S.C. §654(19); 45 C.F.R. §302.65.

Eligibility and Verification System (IEVS).[25] State IV-D agencies also must interface electronically with other state agencies, including public assistance, revenue, motor vehicle, vital records, and corrections agencies, as well as credit bureaus, and other locate sources whenever possible and cost-effective.[26]

In addition, IV-D agencies are required to request data from the Federal Parent Locator Service (FPLS) to help locate noncustodial parents and their assets.[27] The FPLS has access to a variety of federal data sources, including the Internal Revenue Service (IRS), the Social Security Administration (SSA), and the U.S. Department of Labor.[28]

The new law specifies and expands the list of mandatory locate sources and directs states to put in place the legal authorities needed for the IV-D agency to obtain direct access. Under section 325, the expedited procedures section, state IV-D agencies must be able to access information from a number of public and private entities "without the necessity of obtaining an order from any other judicial or administrative tribunal." The new law requires (or at least indicates a preference for) automated access to information whenever records are maintained in automated form by the responding organization. This access must be subject to safeguards on privacy and information security, and responding organizations are immune from liability.

In addition, state IV-D agencies must be granted administrative subpoena authority. Under section 325, IV-D agencies must have the statutory power to (1) subpoena financial and other information needed to establish, modify, or enforce a support order, and (2) sanction the failure to respond. It is not altogether clear from the new law when the state IV-D must be able to access information without an administrative subpoena, or when a subpoena is required. However, section 325 specifies that the IV-D agency must be able to access customer information held by public utilities and cable television companies "pursuant to a subpoena."

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[25] Under 42 U.S.C. §1320b-7, state agencies administering a number of federally-assisted benefit programs (including AFDC, Medicaid, Food Stamps, and unemployment compensation) are required to exchange information through the IEVS in order to (1) verify benefits eligibility and (2) assist the state IV-D program. The SESA may be, but is not required to be, the agency that operates IEVS. Although the IV-D agency is not a part of the IEVS, the IEVS must provide information to the state IV-D agency upon request. Under 26 U.S.C. §6103(7) and (8), IRS and SSA must supply wage and other data to the state IEVS upon request.

[26] Under 26 U.S.C. §6103(l)(6) and (8), the IRS and SSA may disclose tax return information to state and local child support enforcement agencies upon request.

[27] 42 U.S.C. §654(8); 45 C.F.R. §§303.3 and 302.35.

[28] 42 U.S.C. §653(b) and (e). Under 26 U.S.C.§6103, IRS and SSA may disclose return information and other information to the FPLS. Under 42 U.S.C. §653(e), the Department of Labor must provide the FPLS with access to quarterly wage and claims information reported by the SESA under 42 U.S.C. §503(a)(6). Section 316 of the Act, *to be codified as* 42 U.S.C. §653(a)(2) and (3) expressly authorizes the FPLS to obtain and transmit information about individual wages and other income, employment benefits, and assets. In addition, section 316 amends 26 U.S.C. §3304(A)(16) and 42 U.S.C. §503(h)(1) to require the SESA to disclose wage and claim information quarterly to the FPLS and to establish safeguards to ensure that the information is used only for IV-D purposes.

Under section 325, state IV-D agencies must be able to access the following information maintained by state and local agencies without the need to obtain an order from any other judicial or administrative tribunal:

*Tax information*. The IV-D agency must be able to obtain information contained in state and local tax and revenue records, including residential addresses and information about employers, income and assets.

*Employment security information.* The IV-D agency must have the authority to access information in records maintained by the SESA, such as unemployment and workers' compensation benefits and wage information reported by employers.[29]

*Public assistance information.* The IV-D agency must be able to access information maintained by state and local agencies administering public assistance programs.

*Information in vital records*. The IV-D agency must have the authority to obtain access to information in records maintained by state and local vital statistics agencies, including marriage, birth, and divorce records.

*Corrections records.* The IV-D agency must have the authority to access information maintained by state and local corrections units.

*Motor vehicle records.* The IV-D agency must have the authority to access information maintained by the state motor vehicle department.

*Information from licensing boards*. The IV-D agency must have the authority to access information from records maintained by state licensing agencies and boards on professional and occupational licenses.

*Property records*. The IV-D agency must have the authority to access information contained in real and titled personal property records.

*Business ownership records.* The IV-D agency must be able to access public records maintained on the ownership and control of businesses, including corporations, partnerships, and other business entities.

[29] Multiple reporting and exchange relationships established under the old and new laws are potentially redundant, particularly with respect to wage data maintained by the SESA. The IV-D agency can obtain wage information directly through the SESA, IEVS, or FPLS. Existing law authorizes the FPLS to obtain SESA wage data from the U.S. Department of Labor, while the new law requires the state new hire registry and the SESA to report quarterly wage information to the FPLS. Sec. 313, *to be codified as* 42 U.S.C. §653A(g)(2)(B), and 316, *to be codified as* 42 U.S.C. §503(h). However, the new law may make it easier for IV-D agencies to obtain more recent wage information. In addition, the new law amends 42 U.S.C. §503(e)(1)(A) to authorize the IV-D agency to disclose wage information to its private contractors. Sec. 313 of the Act.

Section 325 of the new law also requires that state IV-D agencies have the statutory authority to access employment information from all public and private employers in the state without the need to obtain an order from any other judicial or administrative tribunal:

> *Employment information.* The IV-D agency must be able to request information from state employers about their employees and contractors. All entities in the state - including for-profit, non-profit, and governmental employers - must respond promptly to the state IV-D agency's request for information about employment, compensation, and benefits. Employers must also provide employment information to other state IV-D agencies. The IV-D agency must have the power to sanction an employer's failure to respond.

In addition, section 325 requires state IV-D agencies to have the statutory authority to access limited types of information from private businesses without the need to obtain an order from any other judicial or administrative tribunal. However, the IV-D agency's authority must be restricted to information on specific obligors and obligees (including individuals against or for whom a support order is sought) and the agency must use an administrative subpoena:

> *Public utility information.* Under section 325, the IV-D agency must have the authority to access the names, addresses, and employers of obligors and obligees contained in customer records maintained by public utilities.
>
> *Cable television information.* Under section 325, the IV-D agency must be able to access the names, addresses, and employers of obligors and obligees contained in customer records maintained by cable television companies.

Several sections of the new law requires the state IV-D agency to access information from financial institutions:

> *Bank information on obligors and obligees.* Under section 325, the state IV-D agency must have the authority to obtain financial and other information (including information on assets and liabilities) held by financial institutions about individual obligors and obligees.
>
> *Quarterly bank matches.* Under section 372, state IV-D agencies must enter into agreements with financial institutions doing business in the state to implement a quarterly match system which is automated to the maximum extent feasible. Each calendar quarter, financial institutions must provide the state agency with the name, record address, social security number or other taxpayer identification number, and other identifying information for each delinquent noncustodial parent identified by the state agency who maintains an account at the financial institution. The state agency may pay a reasonable fee to financial institutions conducting quarterly data matches.[30]

[30] Sec. 372 of the Act, *to be codified as* 42 U.S.C. §666(a)(17)(A). "Financial institution" is defined as a depository institution (i.e., bank or savings association) as defined in the Federal Deposit Insurance Act, 12 U.S.C. §1813(c)), an institution-affiliated party (e.g, bank officer as defined in 12 U.S.C. §1813(u)), federal or state

*Nonliability of financial institutions.* Sections 353 and 372 provide for the nonliability of financial institutions providing data matches and individual financial records to the state IV-D agency or taking any other action taken in good faith to comply with the data match provision.

*Limited immunity of state employees.* Section 353 also provides limited immunity to state officers and employees. The state IV-D agency may disclose financial records only for the purpose and to the extent necessary in establishing, modifying and enforcing the individual's child support obligation. A state employee disclosing information based on a good faith but erroneous interpretation of the federal law is protected from liability. However, a civil damages action can be brought by an individual against a state employee who knowingly or negligently makes an unauthorized disclosure.[31]

Section 352 of the new law amends the Fair Credit Reporting Act to provide state and local IV-D agencies with limited access to credit bureau information:

*Credit bureau reports*. Consumer reporting agencies must provide IV-D agencies with consumer reports to use in setting an initial or modified child support award. In addition, credit bureaus must provide confidential consumer reports to state and local IV-D agencies, if the agency head certifies that (1) paternity has been legally established; (2) the report is needed for the limited purposes of determining an individual's capacity to make child support payments or determining the level of payments; (3) the consumer has received at least 10 days' prior notice of the request by certified or registered mail; (4) the report will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.[32]

Section 315 requires states to enact laws giving IV-D agencies access to interstate networks:

*Interstate networks.* IV-D agencies must have access to any motor vehicle or law enforcement locator system used by the state.[33]

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credit union or institution-affiliated party (12 U.S.C. §§1752; 1786(r)), any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the state. Sec. 353 of the Act, *to be codified as* 42 U.S.C. §669A(d)(1)."Financial record" is defined in the Right to Financial Privacy Act of 1978 (12 U.S.C. §3401). "Account" is defined as a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account. Sec. 372, *to be codified as* 42 U.S.C. §666(a)(17)(D)(ii).

[31] Liability is set in the amount of the greater of $1,000 for each act of unauthorized disclosure, or the sum of (1) actual damages, (2) punitive damages where disclosure is willful or grossly negligent, and (3) costs and attorney's fees. Sec. 353 of the Act, *to be codified as* 42 U.S.C. §669A.

[32] Sec. 352 of the Act, *to be codified as* 15 U.S.C. §1681(b)(4) and (5) (Fair Credit Reporting Act). "Consumer reporting agency" is defined in 15 U.S.C. §1681a(f).

[33] Sec. 315 of the Act, *to be codified as* 42 U.S.C. §666(a)(12).

To facilitate the IV-D agency's ability to conduct automated searches, section 317 requires states to collect and record social security numbers on variety of important personal and professional documents:

> *Social security numbers.* States must adopt laws and procedures requiring social security numbers on (1) applications for professional licenses, commercial driver's licenses, and marriage licenses, (2) records relating to divorce decrees, support orders, and paternity acknowledgments and orders, and (3) death certificates and records.[34]

The new law also expands information disclosure and exchange requirements. State IV-D agencies must exchange information with the FPLS, interstate information networks and comparison services, other agencies of the state, and the agencies of other states. Under the new law, states must conduct automated data comparisons to support two distinct purposes: (1) intrastate and interstate child support enforcement, and (2) the administration of federally-assisted public assistance programs, including TANF, Medicaid and other programs designated by HHS.

There are a number of issues raised by the new data exchange provisions. First, both disclosure of FPLS data and state information exchange activities conducted by the statewide system are expressly subject to IRS confidentiality laws, which limit the use of federal data to specified purposes.[35] This "purpose" limitation follows the information as it travels through the system. This means that statewide systems must be able to "tag" information according to its source and authorized purposes. In addition, the Act imposes a number of other confidentiality requirements, including the prohibition on the release of information when a protective order has been entered or if the state has reason to believe that release may result in harm.[36] In order to fulfill

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[34] Sec. 317 of the Act, *to be codified as* 42 U.S.C. §666(a)(13).

[35] Secs. 311 and 316 of the Act, *to be codified as* 42 U.S.C. §§654A(f) and 653(l). For example, 26 U.S.C. §6103(l)(6) and (8) restrict disclosure of IRS and SSA tax return information to state and local child support enforcement agencies only for the purposes of and to the extent necessary in establishing and collecting child support obligations and locating an individual owing an obligation. 26 U.S.C. § 6103(l)(7) authorizes IRS and SSA to disclose more limited information to AFDC, Medicaid, Food Stamps, unemployment compensation, and other programs for the purpose of verifying benefit eligibility. However, the new law allows state courts (and any IV-D agencies) with authority to issue custody or visitation orders to request FPLS locate information for purposes of issuing an order against a resident parent, subject to safeguards against releasing information where there is reasonable evidence of domestic violence. Sec. 316, *to be codified as* 42 U.S.C. §653(a) and (b).

[36] Sec. 303 of the Act, *to be codified as* 42 U.S.C. §654(26)(B) and (C); *also see* sec. 316, *to be codified as* 42 U.S.C. §653(b). The Act also includes a prohibition on the unauthorized use or disclosure of information relating to paternity and support proceedings. Sec. 303, *to be codified as* 42 U.S.C. §654(26)(A). In addition, state IV-D agency access to public and private information is subject to privacy and security safeguards under section 325 (*to be codified as* 42 U.S.C. §666(c)(1)(D)). A state employee who knowingly or negligently makes an unauthorized disclosure of financial records provided by financial institutions is subject to civil liability. Sec. 353, *to be codified as* 42 U.S.C. §669A. Sec. 344, *to be codified as* 42 U.S.C. §654A(d) requires the state IV-D agency to have written policies restricting access to automated data, system controls, monitoring regimens, and staff security training. Current federal regulations require states to have a statute imposing legal sanctions which limits the use or disclosure of information concerning IV-D applicants and recipients to purposes directly connected to the administration of the IV-D program and certain federally-funded public assistance programs. 45 C.F.R. §303.21.

these requirements, statewide systems must be capable of flagging and restricting disclosure of sensitive information. In addition, the creation of redundant reporting relationships - particularly with respect to SESA wage data - means that statewide systems must be able to reconcile inconsistent data obtained from multiple sources.

# States Must Enhance Statewide Computer Systems

The Family Support Act of 1988 (FSA) required state IV-D agencies to develop a single statewide automated data processing and information retrieval system with the capacity to process IV-D cases statewide by October 1, 1995. Because states have had considerable difficulty implementing statewide systems, the FSA deadline was extended to October 1, 1997.[37] In order to meet existing federal certification requirements,[38] the statewide system must include the central IV-D office, all political subdivisions, and the courts, and all components must be electronically linked. All IV-D cases must be on the system, and the system must automatically process the cases within mandated time frames. The statewide system must automatically perform specific locate, establishment, enforcement and case management activities; and maintain financial management, reporting, and security and privacy functions. In addition, the statewide system must electronically interface with other federal and state agencies.

The new law builds on existing FSA requirements, requiring the statewide system to perform specified activities "with the frequency and in the manner" prescribed by federal law.[39] Statewide systems must meet new computer requirements by October 1, 2000.[40] These requirements include:

- *Program management*. The system is required to control and account for the use of federal, state, and local IV-D funds, maintain the data necessary to meet federal reporting requirements on a timely basis, and perform other management functions specified by the Secretary.

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[37] The original October 1995 deadline to meet FSA certification requirements was extended to October 1, 1997 by P.L. 100-485, signed into law on October 12, 1195. In addition, P.L. 104-193 extends, but restricts, the availability of enhanced funding for computer development. *See* sec. 344(a)(4) of the Act, *to be codified as* 42 U.S.C. §654(24)(A).

[38] HHS, *Automated Systems for Child Support Enforcement: A Guide for States* (rev. 1993); HHS, *Automated Systems for Child Support Enforcement: A Guide for States: Questions and Answers Related to the Federal Child Support Enforcement Systems Certification Requirements* (July 1996 ed.). For a longer discussion of IV-D computer requirements, see CLASP's *Child Support Computers: A Summary of Current and Proposed Federal Requirements,* by Vicki Turetsky (Aug. 1996).

[39] Sec. 325 and 344 of the Act, *to be codified as* 42 U.S.C. §§654(16), and 654A.

[40] Sec. 344 of the Act, *to be codified as* 42 U.S.C. §654(24).

- *Calculation of performance indicators.* The state IV-D agency is required to use the statewide system to maintain state performance data required by the Secretary to determine incentive payments and penalties, and to calculate the annual paternity establishment percentage (PEP) for the state. The state must have in place systems controls to ensure the completeness and reliability of, and ready access to, state performance data and the accuracy of PEP calculations.

- *Information integrity and security.* The state IV-D agency must have in effect safeguards on the integrity of, accuracy of, completeness of, access to, and use of data in the statewide system. These safeguards must include: (1) written policies which limit access to and use of data by state agency personnel "only to the extent necessary to carry out the state IV-D program,"specify the data which may be used for particular program purposes, and specify the personnel allowed access to the data; (2) system controls (such as passwords or blocking of fields) that assure "strict adherence" to data access and use policies; (3) use of audit trails, feedback mechanisms, and other methods to routinely monitor access to and use of the statewide system; (4) adequate training of all personnel (including state and local agency staff and contractors) who may have access to or be required to use confidential data; (5) administrative penalties (including dismissal from employment for unauthorized data access, disclose or use; and (6) other safeguards prescribed by the Secretary.

- *Automation of expedited processes*. The statewide system must be used "to the maximum extent feasible" to implement expedited administrative procedures.[41]

- *Collection and disbursement activities.* The statewide system must support the collection and disbursement of IV-D support payments processed through the state disbursement unit. At a minimum, the statewide system must (1) transmit employer income withholding notices, (2) monitor and promptly identify payment defaults, and (3) automatically use enforcement procedures when payments are late or missed.

- *Case registry.* The statewide system must include a case registry containing records of IV-D cases and non-IV-D orders established or modified in the state on or after October 1, 1998. IV-D case records must include (1) the amount of support owed, (2) the amount of support collected, (3) distribution of support, (4) the child's birth date, and (5) the amount of any liens imposed to enforce the order. The state IV-D agency has the responsibility to promptly establish, update, maintain, and regularly monitor IV-D case records. The case registry is discussed in more detail in the next section of this paper.

- *Data comparisons.* The statewide system must compare and exchange information with other data bases and information services, including the state new hire directory, the state collection and

[41] Sec. 325 of the Act, *to be codified as* 42 U.S.C. §666(c).

disbursement unit, the state birth records agency, the state TANF and Medicaid agencies, other state agencies, agencies of other states, and the FPLS.[42]

[42] Secs. 311, 313, 312, and 331 of the Act, *to be codified as* 42 U.S.C. §§654A(f); 653A; 654B;and 666(a)(5).

# States Must Establish New Computer Databases

The new law requires states to develop or expand four additional data bases to augment the locate and enforcement capacity of the state IV-D agency. However, only one of these data bases - the case registry - must be included in the IV-D statewide automated system. The new data bases include:

- *Central case registry.* The case registry must be a part of the IV-D statewide system, and include records of all (1) current IV-D cases and (2) non-IV-D support orders established or modified in the state on or after October 1, 1998.[43]

- *Paternity data base.* All paternity records, including voluntary acknowledgments and paternity adjudications, must be filed in the state birth records registry for comparison with the state case registry.[44]

- *New hire directory.* Employers must send W-4 information to the new hire directory within 20 days of hiring any new employee (whether or not their new employees are known to have support orders).[45]

- *Collection and disbursement unit.* The collection and disbursement unit must process all support payments made in IV-D cases and income withholding payments on non-IV-D orders.[46]

At the same time, HHS is charged with developing a new federal computer system that will expand the functions of the FPLS.[47] Two new FPLS components, a federal case registry of child support orders and a national new hire directory, will parallel new state data bases, and must be designed to receive and compare state data. The national directory of new hires must be implemented by October 1, 1997, while the federal case registry must be implemented by October 1, 1998.

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[43] Sec. 311 of the Act, *to be codified as* 42 U.S.C. §654A.

[44] Sec. 331 of the Act, *to be codified as* 42 U.S.C. §666(a)(5)(M).

[45] Sec. 313 of the Act, *to be codified as* 42 U.S.C. §653A.

[46] Sec. 312 of the Act, *to be codified as* 42 U.S.C. §654B.

[47] Sec. 316(f) of the Act, *to be codified as* 42 U.S.C. §653(h), (i), and (j). The FPLS does not currently maintain a separate data base; rather, it uses batch processing to search available federal records for information requested by the state.

The new law envisions the FPLS at the hub of a complex and continuous loop of interstate information. However, these exchanges are subject to IRS confidentiality laws which restrict the purposes for which federal information can be used.[48] The new law requires states to feed the FPLS with information about state orders and new hires, and requires the FPLS to cross-match the state data and report matches back to the states for further action. The new law specifies that the entire administrative process for transmitting information from the state with a reported new hire ("state A") to the FPLS and from the FPLS to the state responsible for the case ("state B") take no more than 14 business days.

All of the new state data bases will involve "universal" reporting - that is, information processed by the new units will not be limited to the IV-D caseload, but also will include information about the general population. Universal reporting is intended to make it easier to find noncustodial parents subject to enforcement, to identify the paternity status of children, and to facilitate movement of families into and out of the IV-D caseload. In addition, the data bases are supposed to be used for other purposes beyond child support enforcement, primarily for the detection of fraud in other public benefits programs. In the longer term, universal reporting (along with funding incentives) may increase the impetus for states to expand their child support system to encompass most orders issued in the state.

The state data bases must be able to interact efficiently with the statewide automated system and each other. The state case registry (a part of the statewide system) must be able to interact with the state birth records registry to ascertain paternity status. The statewide system also must be able to electronically interface with the new hire registry in IV-D cases to locate noncustodial parents, determine employment, and trigger employer withholding notices. The statewide system must electronically interface with the collection and disbursement unit in IV-D cases to trigger withholding notices, determine payment lapses, and automatically enforce orders. In addition, the state case registry and state directory of new hires must interact with their counterparts in the FPLS.

The state has considerable discretion over the location of the new hire directory and the collection and disbursement unit. The state may develop these units as components of the statewide automated system. However, they need not be a part of the statewide system, nor even located within the IV-D agency. For example, the state could place the new hire registry in the SESA or tax department, or could contract with a private vendor or enter into a regional cooperative agreement to operate the collection and disbursement unit. There also is a limited option to link local disbursement units. If developed as stand-alone units, both units must link electronically to the statewide system. If the units are housed in other agencies, federal funding may only be available to pay for the interface with the statewide system, and not for development costs.

From the state's perspective, there may be a number of advantages in locating the data bases outside the IV-D agency (for example, existing reporting relationships with employers). However, these advantages should be weighed against further fragmentation of the state's child support program. Housing the units in other agencies may present the IV-D agency with difficult coordination and control problems at a time when state accountability for performance is increasing.

[48] 26 U.S.C.§6103. Information disclosed by the FPLS is expressly subject to the IRS confidentiality statute. Sec. 316, *to be codified as* 42 U.S.C. §653(l).

# Case Registry

Under FSA certification guidelines, the statewide system must maintain IV-D case records, including information on paternity and support orders, a history of case activities, and payment records. In order to comply with FSA requirements, IV-D case records must be in the system by the certification deadline, October 1, 1997. In addition, the statewide system must be able to electronically interface with other federal and state data bases.

The new law requires state IV-D agencies to establish a state case registry of IV-D cases and non-IV-D support orders established or modified after October 1998. The case registry must be integrated into the statewide automated system. However, the new law permits state IV-D agencies to establish one central registry unit or to link local case registries through an automated information network. The new law adds three requirements to the statewide system: first that non-IV-D support orders be included in the system; second that case records be centrally available; and third that the statewide system must be able to extract and compare information in the case registry with other data bases.

There is some ambiguity about the implementation deadline for the state case registry. States have until October 1, 2000 to complete statewide system changes required under the new law. However, states must begin matching social security numbers appearing in the IV-D records of the case registry with those reported to the new hire registry by May 1, 1998.[49] It seems clear that states meeting the FSA certification deadline will have the capacity to match and report IV-D case information by the May and October 1998 dates, even though non-IV-D orders are not yet included in the system.

The state case registry must include standardized data elements prescribed by the Secretary.[50] In addition, the case registry must maintain payment records on IV-D cases with an established support order, including:

- the amount of monthly support owed under the order;
- other amounts, including arrearages, interest, late payment penalties, and fees due or overdue under the order;
- amounts collected;
- the distribution of collected amounts;
- the birth date of any child covered by the order;

[49] Sec. 313 of the Act, *to be codified as* 42 U.S.C. §453A(f).

[50] Including identifiers for both parents (such as names, social security numbers and other uniform identification numbers, birth dates, and case identification numbers) and other information required by the Secretary (such as case status).

C the amount of any lien imposed to enforce the order.

The state IV-D agency is responsible for updating automated IV-D case records in the case registry. The IV-D agency must promptly establish, update, maintain, and regularly monitor the case records in order to include information (1) on administrative actions and administrative and judicial proceedings and orders relating to paternity and support, (2) from data matches, (3) on support collections and distributions, and (4) any other relevant information. Parties to a child support order must file locate information with the case registry.[51]

In addition, the state IV-D agency must submit (and update) abstracts of "minimum" case information (to be specified in federal rules) to the new FPLS automated case registry of child support orders.[52] In particular, the IV-D agency must provide the FPLS with the names, social security numbers (or other uniform identification numbers), and state case identification numbers of obligors and obligees, and notify the FPLS of the expiration date of orders. The FPLS case registry must be implemented by October 1, 1998.[53]

## Birth Records Registry

Under FSA certification standards, statewide automated systems must track the paternity status of children in the IV-D caseload. While the standards require state IV-D agencies to maintain information on voluntary acknowledgments and adjudicated orders, there is no prescribed mechanism for gathering and maintaining records when paternity is established outside of the agency. Nor is there any requirement that the state track the paternity status of children outside of the IV-D caseload.[54]

The new law addresses this tracking problem. Under the new law, state law must provide for procedures requiring all paternity records to be filed with the state birth records agency. The state birth records agency must link to the IV-D case registry to allow data matches.[55] While there is no explicit requirement in the new law that the birth records agency automate its birth records, birth records agencies in many states will have to develop or expand an automated data base and electronically interface with the IV-D statewide system in order to track and transmit paternity information effectively. The new law does not earmark federal funding to undertake automation of the birth records agency, and HHS has traditionally declined to authorize federal reimbursement for systems housed in outside agencies.

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[51] Sec. 325, *to be codified as* 42 U.S.C. §666(c)(2)(A).

[52] Sec. 316(f) of the Act, *to be codified as* 42 U.S.C. §653(h); sec. 313, *to be codified as* 42 U.S.C. §653A(f)(1).

[53] Sec. 311 of the Act, *to be codified as* 42 U.S.C. §654A(e). The federal case registry is authorized by sec. 316 of the Act, *to be codified as* 42 U.S.C. §653(h).

[54] HHS, *Automated Systems for Child Support Enforcement: A Guide for States* (rev. 1993).

[55] Sec. 331 of the Act, *to be codified as* 42 U.S.C. §666(a)(5)(M).

# Directory of New Hires

The new law requires states to operate an automated new hire directory containing employment information about newly hired employees. Employers must send W-4 information to the directory within 20 days of hiring any new employee. The new hire directory must be centralized, but may be located inside or outside the IV-D agency. Although not required before enactment of the new law, half of the states currently operate some form of new hire registry. About half of existing state new hire registries are located within the state IV-D program, while the other half are housed in the state employment security, tax, or administration agencies.[56]

The new law contains two implementation dates. States that do not have a new hire directory must establish one by October 1, 1997. States with an existing new hire directory have until October 1, 1998 to conform to federal requirements. However, all states must begin reporting information by October 1, 1997 to a new FPLS national directory of new hires (which must be implemented by that date). In addition, the state must begin matching data in its new hire registry against its case registry by May 1, 1998.

Under the new law, every employer is required to furnish a report on each newly hired employee to the directory of new hires in the state where the employee works.[57] Multistate employers may designate and report to one state, while federal employers report to the FPLS national new hire directory.[58]

The report may be made on a W-4 form, or at the employer's option, an equivalent form containing six data elements: the name, address, and social security number of the employee, and the name, address, and federal employer identification number of the employer.[59] It is unclear whether the new law permits states to require additional information in the new hire report, such as medical coverage, or must request the information separately. Employers may transmit their reports by mail, magnetically, or electronically.

The state has the option to set civil penalties on noncomplying employers. However, state penalties must be less than $25, unless the employer's failure to report is due to a conspiracy between the employer and

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[56] Sec. 313 of the Act, *to be codified as* 42 U.S.C. §653A. The national directory of new hires is authorized in sec. 316 of the Act, *to be codified as* 42 U.S.C. §653(i). For a description of existing state new hire registries, *see* OCSE, *OCSE Information Exchange: Immediate W-4/Employer Reporting of New Hires* (Sept. 1996).

[57] The new law incorporates the IRS definition of "employee" (citing to chapter 24 of the Internal Revenue Code of 1986, but the intended reference is probably 26 U.S.C. §3201(c)) and "employer" (citing to §3401(d)). The new law specifies that the definition of "employer" includes all governmental entities and labor organizations. "Labor organization" is defined in 29 U.S.C. §152(5)(National Labor Relations Act), and includes hiring halls. Under the new law, the definition of "employee" excludes federal and state employees performing intelligence or counterintelligence functions, if the employee's agency head has determined that a new hire report could endanger the employee's safety or compromise an ongoing investigation or intelligence mission.

[58] Multistate employers have employees "employed" in two or more states. Multistate employers designating one state must notify the Secretary. A list of multistate employers will be maintained by the national new hire directory.

[59] Assigned by IRS under 26 U.S.C. §6109.

employee. If there is a conspiracy under state law, the penalty must be less than $500. It is unclear whether the penalty amounts may be imposed by the state on a per-employee or per-occasion violation, or represent an aggregate limit.

The new law prescribes the following time frames for employer reporting, and state and federal response:

- Employers must report to the new hire registry not later than 20 days after the new employee is hired. If an employer transmits reports electronically or magnetically, the employer must report twice a month.[60] States have the option to set a shorter time frame.

- Within 5 business days of receiving the employer report, the state must enter the information into the new hire directory.

- Within 2 business days after the information is entered into the directory of new hires, the IV-D agency must conduct a match with its case registry and, if the employee is the obligor in a IV-D case, send a withholding notice to the employer.

- Within 3 business days after entry of the information, the state directory of new hires must submit the information to the FPLS national directory of new hires.

- Within 2 business days after receiving the state new hire report, the FPLS must enter the information into the national directory of new hires.

- At least every 2 business days, the Secretary must compare the data in the national directory of new hires against data in the federal case registry.

- Within 2 business days after a match, the Secretary must report the information to the state IV-D agency responsible for the case.

- Once a quarter, the state directory of new hires must furnish the national directory of new hires with extracts of the quarterly wage and benefit reports filed by the SESA.

By May 1998, the state must begin conducting matches of the social security numbers reported by employers with the social security numbers appearing in the IV-D records of the state case registry. The information comparisons may be conducted directly by a designated state agency, or by a contractor. If there is a match, the state directory of new hires must be able to report the information directly to another state, providing all of the information reported by the employer to the "appropriate" state IV-D agency.

Information collected by the state new hire directory may be used to locate the noncustodial parent for a IV-D purpose, including establishing paternity, and establishing, modifying and enforcing a child support order.

[60] The provision states that "in the case of an employer transmitting reports magnetically or electronically, by 2 monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart."

In addition, the new law authorizes the use of new hire information for two other purposes. First, new hire information must be made available to the state agency responsible for the IEVS for purposes of verifying eligibility in a number of federally-assisted benefit programs. Second, new hire information must be accessible to the SESA for purposes of administering the unemployment and workers' compensation programs.

## Collection and Disbursement Unit

Under current law, the state IV-D agency must use its statewide automated system to maintain a "full record" of IV-D collections and disbursements of child support payments.[61] In order to meet certification standards, statewide systems must be able to automatically identify and track every payment, maintain automated payment histories, promptly distribute payments in accordance with federal distribution rules, send payments to families within 15 days of receipt, and notify families when the state retains support as reimbursement for welfare benefits. The system must be able to accept electronic benefit transfers (EBT) payments from employers. However, there is no requirement that IV-D collection and disbursement activities be centralized or integrated. Under the old law, the state could administer withheld payments on a state or local basis through a public entity or alternative entity accountable to the state, such as the state or county IV-D agency, the state finance department, the local clerks of court, or a private fiscal agent.[62]

The new law requires state IV-D agencies to establish a centralized collection and disbursement unit to process child support payments.[63] Almost 20 states currently operate centralized collection and disbursement units. While the disbursement unit will be operated directly by the state IV-D agency in most states, the state has three other options under the new law. First, the state IV-D agency may enter into a regional cooperative agreement with other states to operate the disbursement unit. Second, the state IV-D agency may contract with a private vendor to operate the unit. Third, the state may link local disbursement units through an automated information network, but only if the Secretary agrees that the system will not cost more nor take more time to establish or operate than a centralized system and employers have one location to send withheld income.

The new law contains two implementation dates. In general, state IV-D agencies must establish and operate disbursement units by October 1, 1998. However, a grace period is provided for any state processing child support payments through the local courts at the time the new law was enacted. At state option, the local courts may continue to process payments through September 30, 1999.

The intended scope of the disbursement unit is not clear from the text of the new law. The provision authorizing the disbursement unit specifies the inclusion only of IV-D cases and non-IV-D orders initially issued in the state on or after January 1, 1994, raising a question about whether withheld support under pre-1994 non-IV-D orders may be excluded from the disbursement unit. However, the new law also repeals

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[61] 42 U.S.C. §654(10) and (16).

[62] 42 U.S.C. §666(b)(5); 45 C.F.R. §303.100(g)(2).

[63] Sec. 312 of the Act, *to be codified as* 42 U.S.C. §654B.

In addition, the disbursement and collection unit must operate in tandem with the statewide system in IV-D cases, to allow the statewide system to transmit timely employer withholding orders, monitor late and missed payments, and automatically use enforcement procedures.[67] FSA certification guidelines require statewide systems to meet similar requirements in IV-D cases. Statewide systems must access automated sources of employer and wage information, generate withholding orders, monitor compliance with support orders, and initiate enforcement actions.[68]

[67] Sec. 312 of the Act, *to be codified as* 42 U.S.C. §654A(g).

[68] HHS, *Automated Systems for Child Support Enforcement: A Guide for States* (rev. 1993).

# States Must Expand Administrative Enforcement of Support Orders

The new law requires IV-D agencies to expand their use of administrative enforcement remedies. These remedies depend on automation. They include procedures for income withholding, as well as for seizure of funds, statutory liens, voiding of fraudulent property transfers, license suspension, repay or work requirements, credit bureau reporting, and passport revocation. The new law also requires the administrative enrollment of children in medical plans.

## Income Withholding

Under current law, IV-D and non-IV-D orders are subject to withholding as follows:

- *IV-D orders.* IV-D obligors with support orders issued or modified after November 1990 are subject to withholding at the time their support order is entered, whether or not they are current on support payments ("immediate withholding").[69] IV-D obligors with pre-1990 orders are subject to withholding as soon as they fall behind a month on payments ("arrearage-based" withholding).[70]

- *Non-IV-D orders.* Non-IV-D orders initially issued in the state on or after January 1, 1994 are subject to immediate withholding,[71] while pre-1994 non-IV-D orders are subject to arrearage-based withholding.[72]

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[69] 42 U.S.C. §666(b)(3)(A). There are two exceptions: (1) the court or administrative forum finds that there is good cause not to implement immediate income withholding, and (2) the parties agree in writing to an alternative arrangement. 42 U.S.C. §666(b)(3)(A).

[70] 42 U.S.C. §666(b)(3)(B). Also called "initiated" withholding.

[71] 42 U.S.C. §666(a)(8)(B).

[72] 42 U.S.C. §666(a)(8)(A). The new law adds a second provision that non-IV-D obligors (not otherwise subject to immediate withholding) are subject to arrearage-based withholding if their support order was issued in the state before October 1, 1996. Sec. 314(a)(1), *to be codified* as §666(a)(1)(B). While the new provision creates a minor discrepancy with respect to non-IV-D obligors with orders issued between 1994, it does not appear to modify the categories of obligors affected by immediate withholding.

Although the new law does not appear to affect the categories of orders subject to withholding, the new law makes a number of changes in withholding procedures:[73]

- *Centralized payment processing.* The new law requires the state disbursement unit to process withheld income in all IV-D cases and post-1994 non-IV-D orders. While it is clear that post-1994 non-IV-D orders must be included in the state disbursement unit, the law is unclear with respect to pre-1994 non-IV-D orders.

- *Centralized employer notification.* The new law requires that states centralize and automate the issuance of employer withholding notices and orders in IV-D cases. The new law specifically requires the central IV-D office to issue the withholding orders.[74] The state must use a standard withholding form prescribed by the Secretary.[75] The statewide computer system must transmit a withholding order to the employer (or other income source) within two business days after either (1) receiving notice of a IV-D obligor's income source, or (2) new hire information is entered into the state directory of new hires.[76] The order may be issued electronically.[77]

- *Employer withholding procedures.* The new law directs the state to require employers to submit withheld income to the state disbursement unit within 7 business days after the amount would have been paid or credited to the obligor.[78] Employers must withhold income as directed in the withholding notice, and are exempt from liability when complying with a notice that is regular on its

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[73] The new amendments to the withholding provisions contained in 42 U..S.C. §666 raise some questions about the procedures applicable to pre-1994 non-IV-D orders. Subsection (b) of §666 lists ten required withholding procedures (the new law adds an eleventh procedure). All of these procedures apply to IV-D cases. With respect to post-1994 non-IV-D orders, subsection (a)(8)(B) selectively incorporates seven of the procedures in subsection (b), specifically (b)(2), (5), (6), (7), (8), (9), and (10). With respect to pre-1994 non-IV-D orders, subsection (a)(8)(A) does not incorporate any of the procedures. The new law adds a new subsection (a)(1)(B), applicable to pre-1996 non-IV-D orders, which generally cross-references subsection (b).

[74] Sec. 325 of the Act, *to be codified as* 42 U.S.C. §666(c)(1)(F). FSA computer certification guidelines require the statewide system to automatically initiate income withholding. HHS, *Automated Systems for Child Support Enforcement: A Guide for States* (rev. 1993).

[75] However, it is unclear whether use of the national form is required in all IV-D cases, or only in interstate cases. *Compare* sec. 314 of the Act, *to be codified as* 42 U.S.C. §666(b)(6)(A)(ii) *with* sec. 324 of the Act, *to be codified as* 42 U.S.C. §652(a)(11).

[76] Secs. 312 and 313 of the Act, *to be codified as* 42 U.S.C. §§654A(g)(1)(A) and 653A(g), respectively. Under existing federal regulations, the IV-D agency had to issue a withholding notice within 15 days after the support order was entered in immediate withholding cases, or after the advance notice and contest period had run in arrearage-based (initiated) withholding cases, or after locating the employer's address. 45 C.F.R. §303.100(f)((2) and (3).

[77] Sec. 314 of the Act, *to be codified as* 42 U.S.C. §666(b)(11).

[78] Under existing federal regulations, employers have 10 days to submit withheld income to the designated public or private entity. 45 C.F.R. §303.100(f)(1)(ii).

face.[79] Employers who fail to withhold income or submit the withheld income to the state disbursement unit must be fined by an amount set by the state.[80]

C *Employer's compliance with interstate orders.* The new law specifies states must use national income withholding forms in interstate cases.[81] Employers must comply with withholding orders issued by another state, except that the employer must apply the withholding law of the state of the obligor's principal place of employment in determining (1) the employer's processing fee; (2) the maximum amount that may be withheld; (3) the time periods for implementing the withholding order and forwarding the withheld income; (4) prioritization and allocation when there are multiple families; and (5) any terms and conditions not specified in the order.[82]

C *No advance notice.* The new law requires state procedures allowing the IV-D agency to institute income withholding in IV-D cases without advance notice to the obligor. The IV-D agency must send a notice that informs the obligor that withholding has begun, includes the information provided to the employer, and explains how to contest the withholding if there has been a mistake of fact. In implementing the withholding order, the IV-D agency must comply with all state due process requirements.[83]

C *No prior hearing.* The state must institute arrearage-based withholding on non-IV-D orders issued or modified before October 1, 1996 without the need for a judicial or administrative hearing.[84]

C *Definition of "income."* The new law establishes a federal definition of income subject to withholding. "Income" is defined in the new law as any periodic form of payment due to an

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[79] Sec. 314 of the Act, *to be codified as* 42 U.S.C. §666(b)(6)(A)(i).

[80] Sec. 314 of the Act, *to be codified as* 42 U.S.C. §666(b)(6)(D). Under current law, states must fine an employer who takes retaliatory action against an employee subject to withholding, including discharge from employment, refusal to hire, or disciplinary action. In addition, employers who fail to comply with the withholding notice are liable for the accumulated amount that should have been withheld. §666(b)(6)(C).

[81] Sec. 324 of the Act, *to be codified as* 42 U.S.C. §653(a)(11).

[82] Existing federal regulations require application of the law of the state where the obligor was employed, except that the law of the state where the support order was entered applies with respect to the time periods for implementing withholding. 45 C.F.R. §303.100(g)(7).

[83] Sec. 314 of the Act, *to be codified as* 42 U.S.C. §666(b)(4). Under the old law, the state was required to send an advance notice to the IV-D obligor about the proposed withholding and the procedures for contesting the withholding on the basis of mistake of fact. The state had 45 days to make a determination, and to notify the obligor about whether and when withholding would begin.

[84] Sec. 314 of the Act, *to be codified as* 42 U.S.C. §666(a)(1)(B). 42 U.S.C. §666(b)(2), incorporated by §666(a)(8)(B)(iii). The old law required the state to institute withholding without the need to amend the support order (or for any further action by the court or other entity issuing the support order) for two categories of orders: (1) IV-D cases, and (2) post-1994 non-IV-D orders.

- individual, regardless of source, including wages, salaries, commissions, bonuses, worker's compensation, disability payments pursuant to a pension or retirement program, and interest.[85]

## Other Enforcement Remedies

Under current law, states must have laws in effect under which payments that become due under a child support order are judgments by operation of law. As judgments, they have the full force, effect and attributes of a judgment of the State, including the ability to be enforced.[86] The new law builds on the existence of these judgments by requiring the IV-D agency to administratively enforce cases that have accumulated arrearages. These administrative remedies include asset seizure, pay or work requirements, license suspension, and reporting mechanisms. The new law also includes remedies aimed at self-employed obligors, including credit bureau reporting and license suspension. Most of the new provisions are based on state best practices.[87]

- *Seizure of funds*. The IV-D agency must have the administrative authority to intercept or seize periodic or lump sum payments from public sources, including unemployment compensation, worker's compensation, and other public benefits. The IV-D agency also must be able to intercept or seize judgments, settlements, and lottery payments. The agency must be able to attach and seize assets held in financial institutions, and attach public and private retirement funds. To the maximum extent feasible, the automated system must be used to identify, attach and seize funds owed to or belonging to delinquent obligors.[88]

- *Statutory liens*. States must have automatic and administrative procedures under which liens against real and personal property (including bank accounts) arise by operation of law for overdue support owed by noncustodial parents residing or owning property in the state.[89] The IV-D agency must be able to (1) impose the liens, (2) force the sale of tangible property and distribute the proceeds, and (3) attach and seize assets held in financial institutions. Whenever feasible, the IV-D agency must use

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[85] Sec. 314 of the Act, *to be codified as* 42 U.S.C. §666(b)(8). Under the old law, states had the option to extend withholding to include income other than wages.

[86] 42 U.S.C. §666(a)(9).

[87] All of the listed state remedies are state law requirements under 42 U.S.C. §666, except that state certification for passport revocation is a state plan requirement under §654. In their state plans, states must agree to have the required state laws in effect and implement the procedures prescribed in or pursuant to such laws. 42 U.S.C. §654(20).

[88] Sec. 325 of the Act, *to be codified as* 42 U.S.C. §666(c)(1)(G).

[89] Sec. 368 of the Act, *to be codified as* 42 U.S.C. §666(a)(4)(A). The legal definition of a "statutory lien" is a lien created by a statute that arises as a legal consequence from certain circumstances. Black's Law Dictionary, 4th rev. ed. (West Publishing Co.: St. Paul, MN), 1968. In the child support context, a lien will arise as a legal consequence of failing to pay support. Many states have mechanic liens and other liens that arise by operation of law.

its automated system to impose and execute liens on identified property.[90] The state case registry must include the amount of any lien imposed to enforce a IV-D order.[91]

States must accord full faith and credit to statutory liens of other states if the originating state or party has complied with the recording and service rules of the state where the property is located, but responding states may not require judicial notice or hearing before enforcing the lien.[92]

Financial institutions receiving a notice of lien must encumber or surrender the noncustodial parent's assets, and are protected from liability.[93] In addition, ERISA medical plans must comply with both administrative and judicial orders, but there is a question about whether they have to comply with a lien arising by operation of law.[94]

C *Voiding fraudulent transfers*. States must have a law which voids fraudulent transfers of assets and procedures for intervening in fraudulent transfers. Specifically, the state must have in effect one of three laws: (1) the Uniform Fraudulent Conveyance Act of 1981, (2) the Uniform Fraudulent Transfer Act of 1984, or (3) a comparable law specifying "indicia of fraud" which create a "prima facie case" that a debtor transferred income or property to avoid payment to a child support creditor. In addition, the state must have procedures under which the state must seek to void the transfer or obtain a settlement in the best interests of the child support creditor.[95]

C *License suspension.* States must have the authority to withhold, suspend, or restrict the use of various state licenses issued to noncustodial parents who (1) owe overdue support, or (2) fail to comply with subpoenas or warrants relating to paternity or child support proceedings (after receiving appropriate notice). The state must be able to suspend driver's, professional, occupational, and recreational licenses. The license suspension provision provides that the state must use its authority in

[90] Sec. 325 of the Act, *to be codified as* 42 U.S.C. §666(c)(1)(G)(iv).

[91] Sec. 311 of the Act, *to be codified as* 42 U.S.C. §654A(e)(4). Under the old law, states were required to have lien procedures, but there was no requirement that the lien be statutory or administratively enforced.

[92] Sec. 368 of the Act, *to be codified as* 42 U.S.C. §666(a)(4)(B).

[93] Sec. 372 of the Act, *to be codified as* 42 U.S.C. §666(a)(17).

[94] Sec. 381 of the Act, *to be codified as* 29 U.S.C. §1169(a)(2)(B).

[95] Sec. 364 of the Act, *to be codified as* 42 U.S.C. §666(g). Roughly translated, the law must identify the types of circumstances that point to fraud and (if left unexplained) would be sufficient proof that a debtor transferred income or property to avoid child support payments. In addition, the Secretary must find that the law affords rights to child support creditors that are comparable to the uniform statutes.

"appropriate" cases, but does not require the state to suspend a license in every delinquent or no-show case.[96]

C *Payment or work.* In any IV-A case where the noncustodial parent owes past-due support, states must have procedures requiring the IV-D agency to have the authority to issue an order (or to request a judicial or administrative tribunal to issue an order) which requires the noncustodial parent to (1) pay back support according to a plan approved by the court or IV-D agency, or (2) participate in specified work activities determined by the court or IV-D agency. An exception is provided for incapacitated noncustodial parents. While the state must have the authority to impose the requirement in any case, and must implement its procedures, there is no explicit requirement that a pay or work order must be entered in every case.[97]

The pay or work section of the child support law incorporates the definition of "work activities" contained in TANF provisions.[98] Under TANF, "work activities" include unsubsidized employment, subsidized private or public sector employment, work experience (including work associated with the furbishing of publicly assisted housing) if sufficient private employment is not available, on-the-job training, job search and job readiness assistance, community service, vocational education training (not to exceed 12 months), job skills training directly related to employment, education directly related to employment if the individual has not received a high school diploma or GED, satisfactory attendance at secondary school or in a GED course, and the provision of child care to an individual participating in a community service program.

However, it is not clear whether TANF or IV-D funds may be used to pay for work activities for noncustodial parents. States may not use TANF funds to provide assistance to a family "unless the family includes a minor child who resides with a custodial parent or other caretaker relative of the child, or a pregnant individual." In addition, state funds must be spent on "eligible families" to count toward TANF maintenance of effort requirements.[99] While a limited portion of TANF funds may be

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[96] Sec. 369 of the Act, *to be codified as* 42 U.S.C. §666(a)(16).

[97] Sec. 365 of the Act, *to be codified as* 42 U.S.C. §666(a)(15).

[98] Sec. 103 of the Act, *to be codified as* 42 U.S.C. §607(d). Because the statute references §607(d), and not (c), the effect is to allow a broader array of activities to count toward work requirements for noncustodial parents than for TANF recipients. This is because under §607(c), only some of the work activities listed in (d) count toward the minimum work hours required in meeting TANF participation rates.

[99] There is not yet any HHS interpretation on the use of federal funds for noncustodial parent work activities. An argument can be made that states have the flexibility to use TANF funds for purposes other than providing "assistance" to families, based on the multiple purposes of the Act to provide assistance to needy families, to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage, to prevent and reduce the incidence of out-of-wedlock pregnancies, and to encourage the formation and maintenance of two-parent families. Sec. 103 of the Act, *to be codified as* 42 U.S.C. §601. Alternatively, an argument can be made that states have the latitude to define "family" for purposes of TANF assistance to include a noncustodial parent who is not residing with the child. The new law specifies that (1)

transferred annually to the state's Title XX program, the use of transferred funds is restricted to "programs and services to children or their families."[100] On the other hand, IV-D funds may be used for the purpose of enforcing support obligations owed by noncustodial parents, establishing paternity, obtaining support, and assuring that assistance in obtaining support will be available to all children for whom assistance is requested.[101]

C *Credit bureau reporting*. States must have procedures for making periodic reports to consumer reporting agencies. The state must report the name of any delinquent obligor and the amount of overdue support owed. Before reporting a delinquent obligor, the state must provide notice and a reasonable opportunity to contest the accuracy of the information, and meet any other state due process requirements.[102]

C *Certification to revoke passports*. State plans must include a procedure to certify and report arrearages over $5,000 to HHS for passport revocation. After making a determination that an obligor owes more than $5,000, the state must provide notice, an explanation of the consequences, and an opportunity to contest.[103] Based on the state's certification, the Secretary of State must deny a passport application, and may revoke, restrict, or limit an already issued passport.[104] The provision becomes effective October 1, 1997.

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assistance must go to needy families, (2) the family must include a minor child, and (3) the child must reside with a custodial parent or other caretaker relative. Sec. 103 of the Act, *to be codified as* 42 U.S.C. §608(a)(1). If states do have the authority to include noncustodial parents in their definition of family, the implications for calculating two-parent family work participation rates are unclear. Sec. 103, *to be codified as* 42 U.S.C. §607(b). States with federal waivers to conduct Parents' Fair Share demonstrations before the effective date of the new law may not be required to comply with TANF provisions that are "inconsistent" with the waiver until the waiver expires. Sec. 103, *to be codified as* 42 U.S.C. §615(a)(2)(A). For a more complete description of TANF provisions, see CLASP's *A Detailed Summary of Key Provisions of the Temporary Assistance for Needy Families Block Grant of H.R. 3734*, by Mark Greenberg and Steve Savner (Aug. 1996).

[100] Sec. 103, *to be codified as* 42 U.S.C. §604(d)(1)(A).

[101] 42 U.S.C. §651. The new law also creates a $10 million federal grants program to support and facilitate noncustodial parents' access to and visitation of their children, including mediation, counseling, education, development of parenting plans, visitation enforcement, guidelines for visitation and alternative custody arrangements. Sec. 391 of the Act, *to be codified as* 42 U.S.C. §669B.

[102] Sec. 367 of the Act, *to be codified as* 42 U.S.C. §666(a)(7). The state must have satisfactory evidence that the consumer reporting agency meets the definition of the Fair Credit Reporting Act, 15 U.S.C. §1681a(f). Under the old provision, states were required to periodically report the name of any noncustodial parent who was at least two months in arrears. States had the option to report if the arrears were under $1,000. Obligors were entitled to advance notice. States were required to determine if the consumer reporting agency did not have sufficient capacity to make accurate, systematic, and timely use of the information.

[103] Sec. 370 of the Act, *to be codified as* 42 U.S.C. §654(31).

[104] Sec. 370 of the Act, *to be codified as* 42 U.S.C. §652(k).

# Enforcement of Medical Support Orders

Under current federal regulations, states are required to establish guidelines that provide for children's health care needs through health insurance coverage or other means.[105] IV-D agencies are required to petition for the inclusion of medical support in new and modified support orders when health care coverage is available to the noncustodial parent through employment-related or other group health insurance.[106]

Under the new law, states must have laws in effect which require procedures under which all IV-D orders must include a provision for health care coverage. In addition, the new law requires a simple administrative process for enrolling a child in a new health plan. If the noncustodial parent provides coverage and changes jobs, and the new employer provides health coverage, the state must send a notice of coverage, which must operate to enroll the child in the new employer's health plan.[107]

States also are required (as a part of their Medicaid state plan) to adopt laws that require health insurers and employers to comply with judicial and administrative orders for medical support, and included a provision forbidding health insurers from denying coverage to children who are not living with the covered parent or who were born outside of marriage.[108] In addition, group health plans under ERISA are required to comply with "qualified medical child support orders," defined as court orders. The new law amends ERISA to clarify that administrative orders are covered as qualified medical child support orders.[109]

[105] 45 C.F.R. §302.56(c)(3).

[106] 42 U.S.C. §652(f); 45 C.F.R. §303.31.

[107] Sec. 382 of the Act, *to be codified as* 42 U.S.C. §666(a)(19).

[108] 42 U.S.C. §1396a(a).

[109] Sec. 382 of the Act, *to be codified as* 29 U.S.C. §1169(a)(2)(B) (the Employee Retirement Income Security Act of 1974).

# States Must Expand Administrative Procedures to Establish Paternity

Under the new law, states will come under increasing pressure to establish paternity for more non-marital children. The new law requires states to make continuous progress toward reaching a 90 percent paternity establishment percentage in the IV-D caseload or statewide.[110] The new law allows states to calculate the percentage based either on the state's IV-D caseload or the total number of nonmarital children born in the state. If a state fails to improve by the required increment each year, it will be subject to an audit penalty against its TANF block grant funds. In an effort to meet the new audit standard, many states will be looking for ways to simplify and shorten the paternity establishment process. While some states will focus on IV-D case processing, other states will step up their efforts to encourage parents to voluntarily establish paternity for their children before entering the IV-D system.

This section outlines the administrative requirements relating to paternity establishment in the new law. The new law requires states to expand, simplify, and consolidate their voluntary acknowledgment process. In addition, the law requires states to streamline their adjudicative process in contested cases. The new contested case procedures will apply to courts and to administrative tribunals alike.[111]

## Voluntary Acknowledgment

In 1993, Congress required states to set up voluntary acknowledgment programs in each of the state's birthing hospitals. Hospital staff were required to offer unmarried parents (regardless of IV-D case status) a simple civil procedure for establishing the paternity of their newborn child before they left the hospital. The

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[110] Sec. 341 of the Act, *to be codified as* 42 U.S.C. §652(g). States with a paternity establishment percentage (PEP) between 75 and 90 percent must improve by 2 percentage points for the next fiscal year. States with a PEP between 50 and 75 percent must improve by 3 percentage points. States with a PEP between 45 and 50 percent must improve by 4 percentage points. States with a PEP between 40 and 45 percent must improve by 5 percentage points. States with a PEP of less than 40 percent must improve by 6 percentage points. Under the old law, states had to improve by the same number of percentage points until they reached 75 percent. In addition, states could only calculate their PEP based on their IV-D caseload, and not based on statewide results.

[111] For a comprehensive discussion on implementing paternity establishment and cooperation requirements, *see* CLASP's publications called *A Guide to Establishing Paternity for Non-Marital Children: Implementing the Provisions of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996,"* and *Child Support Cooperation Issues: Implementing the Provisions of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996,"* both by Paula Roberts (Nov. 1996).

voluntary acknowledgment process allowed parents to declare their parentage by signing an affidavit, but some states required judicial ratification before the affidavit became legally binding. Thus, while the voluntary acknowledgment process made it easier for parents to establish paternity at the time of birth, the law did not require states to take the process entirely out of the courts.

The new law makes three main changes in the paternity acknowledgment program. First, the new law requires states to expand the availability of voluntary acknowledgment services.[112] Under the new law, state birth record agencies must offer on-site paternity acknowledgment services to parents after they have left the hospital. In addition, states may extend paternity acknowledgment services to other sites, subject to HHS rules. States must conduct outreach efforts to publicize the availability of and encourage the use of voluntary acknowledgment and child support procedures. The new law requires the following state procedures:

- *State affidavit*. States must develop and use an affidavit form meeting minimum HHS standards that parents can sign to acknowledge paternity.

- *Standard forms*. States must use standard forms and materials, and incorporate the same training and evaluation requirements, regardless of where paternity acknowledgment services are offered.

- *Prior notice to parents*. Before parents can sign a paternity acknowledgment, they must be given notice (both orally and in writing) of the alternatives to, legal consequences of and rights and responsibilities arising from the signed affidavit (including any rights due to minority status, if a parent is a minor).

Second, the new law requires states to eliminate any adjudicative steps in the voluntary acknowledgment process.[113] While states may continue to have the courts determine paternity in contested cases, the voluntary process must be handled administratively unless subsequently challenged by one of the signatories. Specifically:

- *Acknowledgment becomes legal finding*. State law must provide that a signed acknowledgment becomes a legal finding of paternity within 60 days. If there is an earlier judicial or administrative proceeding relating to the child to which the signatory is a party, then the acknowledgment becomes a legal finding on the date of the proceeding;

- *No ratification permitted*. State law must provide that no proceeding is required or allowed to ratify an unchallenged acknowledgment of paternity.

- *Limits grounds for challenge*. State law must limit the grounds on which an acknowledgment can be challenged after the 60-day period to fraud, duress or material mistake of fact. The burden of

[112] Sec. 331(a) and (b) of the Act, *to be codified as* 42 U.S.C. §§666(a)(5)(C) and 652(a)(7).

[113] Sec. 331(a) of the Act, *to be codified as* 42 U.S.C. §666(a)(5)(C)(iv), (D), and (E).

proof rests on the challenger, and any legal obligations arising from the acknowledgment must continue during the challenge unless good cause is shown for suspending the obligations.

- *Full faith and credit.* States must give full faith and credit to paternity acknowledgments signed in other states which meet HHS's minimum standards and the originating state's procedures. The old law required states to give full faith and credit to paternity determinations, including voluntary acknowledgments and administrative and judicial orders.[114]

Third, the new law consolidates some of the administrative functions of the voluntary acknowledgment process in the state birth record agency. Under the new law, the birth records agency must become the repository of all paternity records. The birth records agency and IV-D agency must develop the capacity to exchange paternity data. In addition, the state birth record agency must offer paternity acknowledgment services, as noted above. The new law specifies that:

- *Birth records repository.* State law must require that a copy of all voluntary acknowledgments and all paternity orders entered by a court or administrative tribunal be filed with the state birth records agency.

- *Link between birth records agency and child support case registry.* The state birth records agency must provide the state child support case registry with information about paternity acknowledgments and orders.

- *Father's name on birth certificate.* State law must preclude a father's name from appearing on the birth certificate unless he has signed a voluntary acknowledgment of paternity or his paternity has been determined by a court or administrative tribunal.

## Adjudicated Cases

The new law streamlines the paternity adjudication process in several respects.[115] However, states may continue to use judicial or administrative processes to adjudicate paternity and set child support orders. For states that use an administrative process, the new law will expand the administrative tribunal's authority to

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[114] 42 U.S.C. §666(a)(11).

[115] The new law requires the judicial or administrative tribunal (1) to have statewide jurisdiction; (2) to transfer cases between local jurisdictions without the need for parties to refile; (3) to have jurisdiction over paternity actions brought by fathers; (4) to enter default orders on a showing that the defendant was served (and any other showing required by state law); (5) to have the authority to enter temporary support orders upon clear and convincing evidence of paternity; and (6) to include the social security number of both parents in paternity and support orders. The new law requires that states providing the right to a jury trial in paternity cases must abolish the right. The new law also makes it easier to admit genetic test results in a contested case. Sec.331(a) of the Act, *to be codified as* 42 U.S.C. §666(a)(5). The new law also includes a standard definition of "child support order,"encompassing orders issued by either a court or administrative agency of competent jurisdiction. Sec. 366 of the Act, *to be codified as* 42 U.S.C. §653(p) (the FPLS section).

hear and transfer cases statewide, admit genetic test results, and issue default and temporary support orders. Similarly, states with a judicial process must adopt new court procedures.

Regardless of whether the state uses administrative or judicial processes to establish paternity, the new law specifically requires expansion of the IV-D agency's authority to order genetic testing. In many cases, positive genetic test results will allow IV-D agencies to resolve paternity administratively without filing a paternity action.[116]

- *Genetic testing.* The IV-D agency must have the authority to order genetic tests in IV-D cases without having to get permission from a court or administrative tribunal. In any case in which the IV-D agency orders genetic testing, the state must pay for the tests. The state may (but is not required to) recover the cost of the tests from the father if paternity is established. If the initial test results are contested, the IV-D agency must obtain additional testing upon the request and advance payment by the contestant. In addition, the IV-D agency must be able to recognize and enforce the ability of other state IV-D agencies to order genetic tests.

[116] Secs. 325(a) and 331(a) of the Act, *to be codified as* 42 U.S.C. §§666(a)(5)(B) and (c)(1)(A).

# State Options for Administrative Review and Adjustment of Orders

Beginning in October 1993, states were required to review all support orders in the IV-A caseload on a three-year cycle, to adjust eligible orders upward or downward consistent with the state's child support guidelines, and to provide for the child's health care needs.[117] States also were required to review those support orders in its Medicaid-only caseload that lack health insurance coverage, and to adjust the orders by providing for the child's health care needs.[118] In addition, states were required to review and adjust other IV-D orders every three years upon the request of either parent.

Under current law, review and adjustment may be conducted by the IV-D agency, or through a judicial, quasi-judicial or other administrative process. Often states maintained a dual system, with IV-D cases subject to review and adjustment procedures and non-IV-D orders subject to traditional judicial modification procedures. States were required to notify each parent subject to an order in the state of the right to request a review. Usually, state provided a one-time notice within the order itself.[119]

Section 351 of the new law eliminates the three-year mandatory review in the IV-A caseload, making periodic reviews of welfare cases optional with the state and parents. Instead, the new law requires the state to provide the parents in all IV-D cases, including IV-A cases, with notice at least every three years, informing them of their right to request a review and adjustment. The new law specifies the following procedures in IV-A and other IV-D cases:

- *IV-A cases.* States may, but are not required to, include procedures in the state plan for periodically reviewing orders in the IV-A caseload every three years. States may adopt a shorter cycle if it chooses. In addition, states must review, and if appropriate adjust, the order during the three-year cycle upon the request of either parent (and taking account the best interests of the child). The state must provide notice to parents every three years.

[117] Unless the review would not be in the child's best interests and neither parent requested review. 42 U.S.C. §666(a)(10)(B)(i); 45 C.F.R. §303.8(c)(4) and (5). " Review" and "adjustment" are defined in 45 C.F.R. §303.8(a).

[118] The state does not have to review orders in Medicaid-only cases that include health insurance coverage unless a parent requests a review. 45 C.F.R. §303.8(c)(4)(iii) .

[119] 45 C.F.R. §303.8.

- *Other IV-D cases*. States must review the orders during the cycle upon the request of either parent. The state must provide notice every three years.

Parents in the IV-D caseload may request a review at any time. If the review takes place within the three-year cycle, the parent does not have to show a change in circumstances, but if the review is outside the cycle, the parent must demonstrate a substantial change in circumstances before the order will be adjusted. While states are no longer required to conduct cyclical reviews, they are required to provide cyclical notice to IV-D parents.[120]

Under the new law, the state IV-D agency may conduct the review and adjust eligible orders in one of three ways:

- The state may retain their current procedures, reviewing individual orders on a case-by-case basis and adjusting eligible orders upward or downward according to the state's child support guidelines.

- The state may apply an across-the-board cost-of-living adjustment (COLA) to the obligation, using a state-developed formula.

- The state may use an automated process to identify orders eligible for review (if the state opts to review IV-A orders without parental request), to conduct the review, to identify orders eligible for adjustment, and to apply the adjustment, using a threshold established by the state. It is not clear from the statute whether a state using an automated review process must adjust eligible orders under the guidelines.

If the state applies a COLA, or uses an automated review and adjustment process, the state must permit either parent to contest the adjustment within 30 days after notice of the adjustment. Parents may contest the adjustment by requesting an individual review and adjustment under the guidelines.

[120] Sec. 351 of the Act, *to be codified as* 42 U.S.C. §666(a)(10).

# State IV-D Agencies Must Process Interstate Cases Administratively

The new law includes a number of requirements for the administrative enforcement of interstate child support cases. This section briefly summarizes the administrative enforcement provisions.[121]

- By January 1, 1998, states must adopt the Uniform Interstate Family Support Act (UIFSA).[122] States that adopted an earlier version of UIFSA are required to enact any amendments adopted prior to 1998 by the National Conference of Commissioners on Uniform State Laws (NCCUSL). UIFSA provides for "continuing, exclusive jurisdiction" over child support cases by one state at a time, and establishes ordering rules that give priority to the child's home state. The UIFSA law adopted by the state must include the administrative direct enforcement provision contained in UIFSA, which permits IV-D agencies and private attorneys to mail withholding orders directly to an out-of-state employer. The state law also must include the expanded long-arm provision, which allows the state to exercise jurisdiction over a nonresident noncustodial parent and process the case locally.

- The new law also makes several amendments to the Full Faith and Credit for Child Support Orders Act, enacted in 1994. Under the Full Faith and Credit Act, states must accord full faith and credit to out-of-state orders. The amendments are designed to make the Full Faith and Credit Act consistent with UIFSA, including revised rules for recognizing multiple orders and for registration, and defining the child's home state.[123]

- States must have laws requiring the state IV-D agency to respond within 5 business days to another state's request for enforcement. A request from another state does not transfer the case, but instead authorizes the IV-D agency to take enforcement action without adding the case to its own caseload. A state IV-D agency may make the request electronically or by other means, but must include the information needed to conduct an automated match in the state's data bases. The request is a

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[121] For a more complete discussion of new interstate enforcement provisions, *see* Margaret Campbell Haynes, *Enforcement of Child Support Orders Under Act*, included in materials for American Bar Association Section of Family Law, Welfare Reform Act Telephone Seminar (October 2, 1996).

[122] Sec. 321 of the Act, *to be codified as* 42 U.S.C. §666(f).

[123] Sec. 322 of the Act, *to be codified as* 28 U.S.C. §1738B.

certification by the requesting state of the amount in arrears and that all procedural due process requirements have been met. The state must maintain records of the number of interstate enforcement requests received by the state, the number of cases for which the state collected support in response, and the amount of collected support.[124]

- States must have laws that recognize and enforce the authority of a IV-D agency in another state to take a variety of expedited administrative actions without a judicial or administrative order, including genetic testing, access to information, subpoena authority, ordering income withholding, securing assets, changing the payee, and increasing monthly payments.[125]

- State IV-D agencies must use their statewide automated system to extract, share, and compare information with the FPLS, agencies in other states, and information comparison services to support interstate enforcement.[126]

- States must accord full faith and credit to statutory liens that arise by operation of law in another state when another state follows procedural rules for perfecting the lien, except no judicial notice or hearing prior to enforcement is required.[127]

- States must use national forms in interstate cases for income withholding, liens and subpoenas. The Secretary must promulgate the national forms by October 1, 1996, and states must begin using them by March 1, 1997. In addition, states must develop an paternity affidavit meeting minimum national standards, and give full faith and credit to paternity acknowledgments signed in other states meeting minimum national standards and the originating state's procedures.[128]

- States and tribes or tribal organizations with a tribal court system or Court of Indian Offenses with the authority to establish paternity and establish, modify, and enforce support orders may enter into cooperative agreements. In addition, the Secretary may directly fund tribes and tribal organizations with approved IV-D programs.[129]

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[124] Sec. 323 of the Act, *to be codified as* 42 U.S.C. §666(a)(14). Under current regulations, state IV-D agencies must respond within 10 days. 45 C.F.R. §303.7(a)(2).

[125] Sec. 325 of the Act, *to be codified as* 42 U.S.C. §666(c).

[126] Sec. 311 of the Act, *to be codified as* 42 U.S.C. §654A(f)(4).

[127] Sec. 368 of the Act, *to be codified as* 42 U.S.C. §666(a)(4).

[128] Secs. 324 and 331, *to be codified as* 42 U.S.C. §§654(9)(E); 652(a)(11) and (a)(7); 666(a)(5)C)(iv), respectively.

[129] Sec. 375 of the Act, *to be codified as* 42 U.S.C. §§654(33) and 655(b).

Appendix A

# PRWORA Child Support Provisions Effective On or Before October 1, 1996[130]

| Provision | Description | PRWORA Section | Amending 42 U.S.C § | Effective Date |
|---|---|---|---|---|
| Statewide system funding | 90% federal funding match is available for state system expenditures approved in APD submitted on or before Sept. 30, 1995 to meet pre-PRWORA requirements. | 344 | 654A(b)(3)(A) | Funding available FY 1996 and 1997 |
| Statewide system funding | 80% federal funding match (capped at $400 million) is available for state system expenditures to meet pre-PRWORA and PRWORA requirements. | 344 | 654(b)(3)(B) | Funding available FY 1996 through 2001 |
| Quarterly wage reporting | Expanded definition of "employers" subject to quarterly wage reporting under state unemployment compensation laws; disclosure of wage data to state contractors. | 313 | 1320b-7(a)(3); 503(e) | Upon enactment. |
| FPLS | Expanded locate authority of Federal Parent Locator Service; revised fee provisions; provision of SESA wage and claim data to FPLS. | 316 | 653; 503(h); 26 U.S.C. §3304(a)(16) | Upon enactment |
| Full faith and credit | Amendments conforming Full Faith and Credit Act to UIFSA. | 322 | 28 U.S.C. §1738B | Upon enactment |
| Paternity affidavit | HHS must specify minimum requirements of paternity affidavit. | 331 | 652(a)(7) | Upon enactment |
| State reports | HHS must establish uniform state reporting procedures and data definitions. | 343 | 652(a)(5) | Upon enactment |

[130] Unless state law or constitutional amendment is required. If state laws must be enacted or amended, the effective date is the effective date of the state legislation or the first day of the first quarter after the close of the first regular legislative session held after enactment of PRWORA. If constitutional amendments must be adopted, states have one year after the effective date of the amendment, or five years after enactment of PRWORA, whichever is earlier. PRWORA was enacted August 22, 1996.

| Provision | Description | PRWORA Section | Amending 42 U.S.C § | Effective Date |
|---|---|---|---|---|
| Set asides from federal share of collections | 1% of federal share set aside for technical assistance and research. 2% of federal share set aside for FPLS operation. | 345 | 652(j); 653(o) | Upon enactment |
| Credit bureau reports | Credit bureaus must furnish IV-D agencies with credit reports. | 352 | 15 U.S.C. §1681b | Upon enactment |
| Financial institutions | Financial institutions are not liable under any federal or state law for disclosing financial records to state IV-D agencies. | 353 | 659A | Upon enactment |
| Military personnel | Military must operate personnel locator and provide leave for support hearings. Military pay subject to withholding. | 363 | 10 U.S.C §1408 | Upon enactment |
| Support orders | "Support order" defined. | 366 | 653(p) | Upon enactment |
| International procedures | Secretary of State may declare foreign reciprocating countries; HHS designated as central authority. States must treat requests for services by foreign reciprocating countries as requests by states. | 371 | 659A(b) | Upon enactment |
| Bankruptcy | State child support debts are not dischargeable in bankruptcy. | 374 | 11 U.S.C. 523; 656(b) and (c) | Upon enactment |
| Tribal enforcement | HHS may fund tribal organizations. | 375 | 655(b) | Upon enactment |
| ERISA | "Qualified medical child support orders." defined to include administrative orders. | 381 | 29 U.S.C. §1169 | Upon enactment, except that plan amendments not required until first plan year beginning on or after Jan. 1, 1997. |
| PEP | Increase in Paternity Establishment Percentage to 90%, and options in calculating PEP. | 341 | 652(g) | Calendar quarter beginning on or after enactment (Oct. 1, 1996) |

| Provision | Description | PRWORA Section | Amending 42 U.S.C § | Effective Date |
|---|---|---|---|---|
| Eligibility for IV-D services | State plan must provide for services to nonresidents and former IV-A recipients, and for enforcement support obligations with respect to children and custodial parents. | 301 | 654(a)(4), (6), and (25) | Oct. 1, 1996 |
| Distribution to current IV-A families | State plan must provide that support will be distributed according to 42 U.S.C. §657. Federal $50 pass-through requirement repealed. States may retain or distribute the state's share of collections to IV-A families. Federal share must be paid first, regardless if state has obligation under state law or AFDC state plan to continue paying pass-through from state share. | 302 | 657(a); 654(11) | Oct. 1, 1996, except that states have option to implement earlier. |
| Interstate forms | HHS must promulgate national income withholding, lien, and administrative subpoena forms. | 324 | 652(a)(11) | Oct. 1, 1996 |
| Cooperation | State plan must provide for the IV-D agency to determine cooperation under revised rules. | 333 | 654(29) | Oct. 1, 1996 |
| Data definitions | State plan must provide for use of standard data definitions developed by HHS. | 343 | 654(30) | Oct. 1, 1996 |
| International enforcement | State plan must provide that state treats requests for services by foreign reciprocating countries as requests by states. | 371 | 654(32) | Oct. 1, 1996 |
| Tribal enforcement | State plan must provide for states that have Indian country within their borders that the state may enter into cooperative agreements with an Indian tribe or tribal organization. | 375 | 654(33) | Oct. 1, 1996 |
| Federal reports | Changes in HHS annual report to Congress. | 346 | 652(a)(10) | Beginning in FY 1997 |
| Access and visitation | Federal access and visitation grants available to states. | 391 | 659B | Beginning in FY 1997 |

Appendix B

# PRWORA Child Support Provisions Requiring State Law Changes[131]

| Provision | Major Requirements | PRWORA Section | Amending 42 U.S.C § | Effective Date |
|---|---|---|---|---|
| Income withholding | States laws requiring income withholding procedures; "income" defined. | 314 | 666(a)(1) and (b) | Effective following the first legislative session |
| Interstate locator networks | State laws requiring IV-D agency access to interstate motor vehicle and law enforcement networks. | 315 | 666(a)(12) | Effective following the first legislative session |
| SSN | State laws requiring social security numbers on state records. | 317 | 666(a)(13) | Effective following the first legislative session |
| Interstate enforcement | Administrative enforcement in interstate cases. | 323 | 666(a)(14) | Effective following the first legislative session |
| Expedited procedures | State laws requiring expedited procedures, including IV-D agency powers, statewide jurisdiction, and presumptive notice. | 325 | 666(a)(2) and (c) | Effective following the first legislative session |

[131] Provisions requiring enactment or amendment of state laws under 42 U.S.C. §666 become effective on October 1, 1996 or the effective date of the laws enacted by the state legislature, and must become effective no later than the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature (with a grace period if a state constitutional amendment is required).

| Provision | Major Requirements | PRWORA Section | Amending 42 U.S.C § | Effective Date |
|---|---|---|---|---|
| Paternity establishment | State laws requiring procedures for establishing paternity voluntarily and in contested cases, including father's name on birth record, voluntary paternity services offered by birth records agency, and filing paternity records in state birth records agency. Also voluntary acknowledgment considered legal finding of paternity without ratification. Also genetic testing payment and admissibility, presumption pf paternity based on test results, default orders, temporary support orders, proof of costs, no right to jury trials, standing of putative fathers. | 331 | 666(a)(5) | Effective following the first legislative session |
| Review and adjustment | State laws requiring simplified review and adjustment procedures. | 351 | 666(a)(10) | Effective following the first legislative session |
| Fraudulent transfers | Each state must have in effect the Uniform Fraudulent Conveyance Act of 1981, the Uniform Fraudulent Transfer Act of 1984, or another law and must have procedures for voiding fraudulent transfers. | 364 | 666(g) | Effective following the first legislative session |
| Pay or work | State laws requiring procedures to order a noncustodial parent with a child receiving IV-A assistance to pay or participate in work activities. | 365 | 666(a)(15) | Effective following the first legislative session |
| Credit bureau reporting | State laws requiring procedures for reporting arrearages to consumer reporting agencies. | 367 | 666(a)(7) | Effective following the first legislative session |
| Liens | State laws requiring procedures under which liens arise by operation of law. | 368 | 666(a)(4) | Effective following the first legislative session |
| Licenses | State laws requiring procedures for the suspension of driver's, professional, occupational, and recreational licenses. | 369 | 666(a)(16) | Effective following the first legislative session |

| Provision | Major Requirements | PRWORA Section | Amending 42 U.S.C § | Effective Date |
|---|---|---|---|---|
| Financial institutions | State laws requiring procedures for quarterly bank matches. | 372 | 666(a)(17) | Effective following the first legislative session |
| Grandparent liability | State laws requiring procedures under which, at state option, the parents of a minor noncustodial parent with a child receiving IV-A assistance may be held liable for support. | 373 | 666(a)(18) | Effective following the first legislative session (State option) |
| Medical orders | State laws requiring procedures under which IV-D child support orders include health care coverage and the state agency transfers notice of coverage to new employers. | 382 | 666(a)(19) | Effective following the first legislative session |
| UIFSA | Adoption of UIFSA, with modifications. | 321 | 666(f) | Jan. 1, 1998 |

Appendix C

# PRWORA Child Support Provisions Requiring State Plan Amendment[132]

| Provision | Description | PRWORA Section | Amending 42 U.S.C § | Effective Date |
|---|---|---|---|---|
| Eligibility for IV-D services | State plan must provide for services to nonresidents and former IV-A recipients, and for enforcement support obligations with respect to children and custodial parents. | 301 | 654(a)(4), (6), and (25) | Oct. 1, 1996 |
| Distribution to current IV-A families | State plan must provide that support will be distributed according to 42 U.S.C. §657. Federal $50 pass-through requirement repealed. States may retain or distribute the state's share of collections to IV-A families. Federal share must be paid first, regardless if state has obligation under state law or AFDC state plan to continue paying pass-through from state share. | 302 | 657(a); 654(11) | Oct. 1, 1996, except that states have option to implement earlier. |
| Cooperation | State plan must provide for the IV-D agency to determine cooperation under revised rules. | 333 | 654(29) | Oct. 1, 1996 |
| Data definitions | State plan must require use of standard data definitions developed by HHS. | 343 | 654(30) | Oct. 1, 1996 |
| International enforcement | State plan must provide that state treats requests for services by foreign reciprocating countries as requests by states. | 371 | 654(32) | Oct. 1, 1996 |
| Tribal enforcement | State plan must provide for states that have Indian country within their borders that the state may enter into cooperative agreements with an Indian tribe or tribal organization. | 375 | 654(33) | Oct. 1, 1996 |
| Interstate forms | State plan must provide that states will use national forms in interstate cases. | 324 | 654(9) | March 1, 1997 |

[132] Effective on the date specified in the last column of this table, unless state law or constitutional amendment is required. If state laws must be enacted or amended, the effective date is the first day of the first quarter after the close of the first regular legislative session held after enactment of PRWORA. If constitutional amendments must be adopted, states have one year after the effective date of the amendment, or five years after enactment of PRWORA, whichever is earlier. PRWORA was enacted August 22, 1996.

| Provision | Description | PRWORA Section | Amending 42 U.S.C § | Effective Date |
|---|---|---|---|---|
| Privacy safeguards | State plan must provide for privacy safeguards on disclosure of information. | 303 | 654(26) | Oct. 1, 1997 |
| Notification of hearings | State plan must provide for notice of hearings and copies of orders to IV-D applicants and recipients and parties to IV-D cases. | 304 | 654(12) | Oct. 1, 1997 |
| Reviews and reports | State plan must provide for annual program reviews and reports to HHS, and a process for extracting performance data and calculations; | 342 | 654(15); | Calendar quarter beginning twelve months after enactment (Oct. 1, 1997) |
| Passports | State must have procedures for certifying cases with arrearages of more than $5000 to HHS. | 370 | 654(31) | Oct. 1, 1997 |
| Directory of new hires | State plan must provide for operation of state directory of new hires. | 313 | 654(28); 653A | Oct. 1, 1997, except for pre-enactment new hire directories, which must conform by Oct. 1, 1998 |
| Disbursement unit | State plan must provide for operation of centralized collection and disbursement unit. | 312 | 654(27); 654B | Oct. 1, 1998, except that state has option to process collections through local courts until Oct. 1, 1999 |

Appendix D

# PRWORA Child Support Provisions Effective After October 1, 1996 and by October 1, 1997 (FY 1997 and 1998)[133]

| Provision | Description | PRWORA Section | Amending 42 U.S.C § | Effective Date |
|---|---|---|---|---|
| Federal employees | Revised authority to withhold income from federal employees. | 362 | 659 | Six months after enactment (Feb. 22, 1997) |
| Incentives report | HHS must develop a new performance-based incentive system and report to Congress. | 341 | n/a | March 1, 1997 |
| Interstate forms | State plan must provide that states will use national forms in interstate cases. | 324 | 654(9) | March 1, 1997 |
| Distribution | State must distribute assigned post-assistance arrearages to families first. | 302 | 657 | Oct. 1, 1997 |
| Privacy safeguards | State plan must provide for privacy safeguards on disclosure of information. | 303 | 654(26) | Oct. 1, 1997 |
| Notification of hearings | State plan must provide for notice of hearings and copies of orders to IV-D applicants and recipients and parties to IV-D cases. | 304 | 654(12) | Oct. 1, 1997 |
| Directory of new hires | State plan must provide for creation of state directory of new hires, and report to FPLS. | 313 | 654(28); 653A | Oct. 1, 1997, except for pre-existing state new hire directories, which must come into compliance by Oct. 1, 1998 |
| FPLS | HHS must operate a national directory of new hires. | 316 | 653(i) | Oct. 1, 1997 |
| Statewide system | State must meet all FSA statewide automated systems requirements. | 343 | 654(24) | Oct. 1, 1997 |

[133] Excludes state law changes, which must be effective on the effective date of the state legislation or the first day of the first quarter after the close of the first regular legislative session held after enactment of PRWORA.

| Provision | Description | PRWORA Section | Amending 42 U.S.C § | Effective Date |
|---|---|---|---|---|
| Reviews and audits | State plan must provide for annual reviews and submit performance data; HHS must conduct reviews and audits. | 342 | 654(15); 652(a)(4) | Calendar quarter beginning 12 months after enactment (Oct. 1, 1997) |
| IRS fees | IRS may not assess additional fees on certified amounts. | 361 | 26 U.S.C. §6305(a) | Oct. 1, 1997 |
| Passports | State must have procedures for certifying cases with arrearages of more than $5000 to HHS. HHS must submit cases with state-certified arrearages to Secretary of State, who must deny passport applications and may revoke or limit issued passports. | 370 | 652(k) | Oct. 1, 1997 |

Appendix E

# PRWORA Child Support Provisions Effective after October 1, 1997 (in FY 1998, 1999, 2000, and 2001)

| Provision | Description | PRWORA Section | Amending 42 U.S.C § | Effective Date |
|---|---|---|---|---|
| Data matching | State must conduct automated matches of SSN in case registry and new hire registry. | 317 | 666(a)(13) | May 1, 1998 |
| Distribution study | HHS must report to Congress on distribution changes. | 302 | 657 | Oct. 1, 1998 |
| Disbursement unit | State plan must provide for operation of centralized collection and disbursement unit. | 312 | 654(27); 654B | Oct. 1, 1998, except that state has option to process collections through local courts until Oct. 1, 1999 |
| New hire directory | State with pre-enactment new hire reporting must conform to federal requirements. | 313 | 653A | Oct. 1, 1998 |
| FPLS | HHS must operate a federal case registry. | 316 | 653(h) | Oct. 1, 1998 |
| Disbursement unit | States exercising option to process collections through local courts must implement centralized collection and disbursement unit. | 312 | 654B | Oct. 1, 1999 |
| Incentive system | HHS must implement a new performance-based incentive funding system. | 341 | 658 | Oct. 1, 1999 |
| Distribution | State must distribute pre-assistance arrears to families. | 302 | 657 | Oct. 1, 2000 |
| Statewide system | Statewide automated system must meet all post-FSA systems requirements, including a case registry. The statewide system must have the capacity to perform financial and program management functions, calculate performance indicators, and have information integrity and security safeguards. | 344 | 654A | Oct. 1, 2000, except that state must conduct automated matches of SSN in case registry and new hire registry by May 1, 1998 |